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PATENT APPLICATION

ATTORNEY DOCKET NO. 100203960-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): David H. HANES

Application No.: 10/753,251

Filing Date: January 8, 2004

Confirmation No.: 6734

Examiner: Adegeye, Oluwaseun

Group Art Unit: 2621

Title: SYSTEM, METHOD, AND COMPUTER-READABLE MEDIUM FOR ANALYZING AN MPEG-FORMATTED FILE

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on June 13, 2008 .

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

Respectfully submitted,
David H. HANES

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: David H. HANES | Confirmation No.: 6734

Serial No.: 10/753,251 | Docket No.: 100203960-1

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MAIL STOP: APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

REPLY BRIEF

Appellant respectfully submits this Reply Brief in response to the Examiner's Answer issued June 13, 2008, pursuant to 37 C.F.R. § 41.41.

STATUS OF CLAIMS

Claims 1-26 stand rejected pursuant to a final Office Action mailed January 2, 2008. Claims 1-26 are presented for appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1, 4-5, 7-11, 14-16, 18-19, 21-23, and 25-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,973,130 issued to Wee et al. (hereinafter "*Wee*") in view of U.S. Patent Publication No. 2004/0136352 issued to Fu et al. (hereinafter "*Fu*").

2. Claims 2, 3, and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Wee* in view of *Fu* as applied to claims 1, 10, 18, and 25, and further in view of U.S. Patent Publication No. 2002/0044760 issued to Shirakawa et al. (hereinafter "*Shirakawa*").

3. Claims 6, 12, and 20 were rejected under 35 USC §103(a) as being unpatentable over *Wee* in view of *Fu* as applied to claims 1, 10, 18, and 25, and further in view of U.S. Patent Publication No. 2001/0026511 issued to Ueda et al. (hereinafter "*Ueda*").

4. Claims 17 and 24 were rejected under 35 USC §103(a) as being unpatentable over *Wee* in view of *Fu* as applied to claims 1, 10, 18, and 25 above and further in view of U.S. Patent Publication No. 2002/0169742 issued to Nakamura et al. (hereinafter "*Nakamura*").

ARGUMENT

1. Rejection under 35 U.S.C. § 103(a) in view of *Wee* and *Fu*

In response the Appellant's remarks in the Appeal Brief, the Appellee indicates, and the Appellant agrees, that *Wee* does not disclose whether an MPEG formatted file is decodable on a first type of MPEG-capable decoder but not on a second type of MPEG-capable decoder (Examiner's Answer, page 11). However, the Appellee asserts that *Fu* remedies this deficiency. For at least the reasons noted below, the Appellant respectfully disagrees.

In support of the Appellee's assertion that *Fu* discloses determining whether an MPEG formatted file is decodable on a first type of MPEG-capable decoder but not on a second type of MPEG-capable decoder, the Appellee generally refers to paragraphs [0025] and [0026] of *Fu*. In that regard, the Appellee specifically states on page 11 of the Examiner's Answer:

> The last four lines of paragraph 25 discloses that the type of encoding may also determine whether another system will be able to decode and interpret a received MPEG data stream. From the last four lines of paragraph 25, it is clear that there is another decoder that may or may not be able to decode the MPEG data stream based on the type of encoding.

(emphasis added). For the convenience of the Board, the last four lines of *Fu* state:

> Notably, the type of encoding may determine whether another system will be able to decode and interpret a received MPEG data stream. In this regard, the other system may be a legacy or disparate system.

(emphasis added).

Fu notes that the "other system" may be a legacy or disparate system. However *Fu* does not appear to disclose or even suggest that the "other system" is an "MPEG-capable" decoder. In addition, *Fu* appears to indicate that an MPEG data stream may be received by the legacy or disparate system. However, *Fu* does not appear to teach or even suggest that the legacy or disparate system is an "MPEG-capable" decoder. In other words, even though *Fu* appears to disclose that an MPEG data stream may be received by the legacy or disparate system, *Fu* falls short of teaching or suggesting that the legacy or disparate system is actually configured to decode any received MPEG data stream at least because *Fu* does not disclose that

the "other system" is an "MPEP-capable" decoder. Thus, even if combined, the cited references fail to disclose all limitations of the claims of the present application.

In addition to the above, the Appellant submits that *Fu* expressly teaches away from any need to determine whether an MPEG formatted file is decodable on a first type of MPEG-capable decoder but not on a second type of MPEG-capable decoder as claimed by Appellant. For example, in paragraph [0024], *Fu* states:

> In order to provide compatibility and interoperability between proprietary and legacy systems, and standardized DVB MPEG compliant systems, it may be necessary for conversion of the transport stream to . . . be fully MPEG2 DVB compliant, since a set-top box may lack a priori knowledge pertaining to a type of external MPEG decoding device that will receive and decode the converted transport stream.

(emphasis added). As the above passage from *Fu* appears to indicate, the set-top box, which as noted above is believed to be the lone MPEG-capable decoder, may not have knowledge of the type of external MPEG decoding device (e.g., a high definition television (HDTV) or personal video recorder (PVR)) that will receive the MPEG transport stream. Therefore, it is important to convert the proprietary and legacy system signals into a standardized MPEG transport stream which is believed to be compatible with all types of MPEG-capable decoders. Because a standardized MPEG transport stream which is believed to be compatible with all types of MPEG-capable decoders appears to be employed in *Fu*, there is no need to modify *Wee* to determine whether an MPEG formatted file is decodable on a first type of MPEG-capable decoder but not on a second type of MPEG-capable decoder. Indeed, the standardized MPEG transport stream of *Fu* should be able to operate on all MPEG-capable decoders (e.g., HDTV's, PVR's) as a result of being standardized to be fully MPEG compliant. Therefore, at least *Fu* teaches away from the modification proposed by Appellee.

For at least the foregoing reasons, the combination of *Wee* and *Fu* does not appear to disclose or even suggest each and every limitation of Claim 1. As such, Claim 1 is believed to be patentable over the cited references.

At least for the reasons discussed above in connection with independent Claim 1, Appellant respectfully submits that Claims 10, 18 and 25 are also patentable over the cited references.

Each of Claims 4-5, 7-9, 11, 14-16, 19, 21-23 and 26, either directly or through intervening claims, depends from and includes all the base limitations of independent Claims 1, 10, 18 and 25, respectively. As such, each of Claims 4-5, 7-9, 11, 14-16, 19, 21-23 and 26 is believed to be patentable for at least the reasons noted above for Claims 1, 10, 18 and 25. Therefore, the rejection of Claims 4-5, 7-9, 11, 14-16, 19, 21-23 and 26 should be withdrawn.

2. Rejection under 35 U.S.C. § 103(a) in view of *Wee, Fu* and *Shirakawa*

Each of Claims 2, 3 and 13, either directly or through intervening claims, depends from and includes all the base limitations of independent Claims 1 and 10, respectively. As such, each of Claims 2, 3 and 13 is believed to be patentable for at least the reasons noted above for Claims 1 and 10. Therefore, the rejection of Claims 2, 3 and 13 should be withdrawn.

3. Rejection under 35 U.S.C. § 103(a) in view of *Wee, Fu* and *Ueda*

Each of Claims 6, 12, and 20, either directly or through intervening claims, depends from and includes all the base limitations of independent Claims 1 and 10, respectively. As such, each of Claims 6, 12, and 20 is believed to be patentable for at least the reasons noted above for Claims 1 and 10. Therefore, the rejection of Claims 6, 12, and 20 should be withdrawn.

4. Rejection under 35 U.S.C. § 103(a) in view of *Wee, Fu* and *Nakamura*

Each of Claims 17 and 24, either directly or through intervening claims, depends from and includes all the base limitations of independent Claim 10. As such, each of Claims 17 and 24 is believed to be patentable for at least the reasons noted above for Claim 10. Therefore, the rejection of Claims 17 and 24 should be withdrawn.

CONCLUSION

Appellant has demonstrated that the present invention as claimed is clearly distinguishable over the art cited of record. Therefore, Appellant respectfully requests that the Board of Patent Appeals and Interferences reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

No fee is believed due with this Reply Brief. If, however, Appellants have overlooked the need for any fee, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,

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Date: August 12, 2008

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